

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVONTE MARTIN,

Petitioner,

v.

Case No. 21-cv-12616
Hon. Matthew F. Leitman

JOHN DAVIDS,

Respondent.

/

**ORDER DENYING PETITIONER'S MOTION TO DECLARE
INDIGENCY AND TO WAIVE FILING FEE FOR
NOTICE OF APPEAL (ECF No. 24)**

Petitioner Davonte Martin is a state inmate in the custody of the Michigan Department of Corrections. In 2021, Martin filed a petition for a writ of habeas corpus in this Court pursuant to 28 U.S.C. § 2254. (*See* Pet., ECF No. 1.) The Judge previously assigned to this case denied that petition on July 1, 2024. (*See* Op. and Order, ECF No. 14.) Shortly thereafter, Martin filed a motion for relief from judgment pursuant to Rules 60(b)(1) and 60(b)(6) of the Federal Rules of Civil Procedure. (*See* Mot., ECF No. 16.) The Judge concluded that the motion was a second or successive habeas petition and that Martin had not received prior permission from the United States Court of Appeals for the Sixth Circuit to file that petition. (*See* Op. and Order, ECF No. 22.) The Judge therefore transferred the

petition to the Sixth Circuit “for a determination whether Martin is authorized to file a successive petition.” (*Id.*, PageID.1272.)

On March 9, 2025, Martin filed a Notice of Appeal seeking to challenge the transfer of his motion to the Sixth Circuit. (*See* Notice of Appeal, ECF No. 23.) He has also filed a motion to proceed *in forma pauperis* on appeal. (*See* Mot., ECF No. 24.) A court may grant *in forma pauperis* status on appeal if it finds that an appeal is being taken in good faith. *See Foster v. Ludwick*, 208 F.Supp.2d 750, 764-65 (E.D. Mich. 2002); 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith”); Fed. R. App. 24(a).

The Court **DENIES** Martin’s motion to proceed *in forma pauperis* on appeal because Martin’s appeal cannot be taken in good faith. Whether Martin should be permitted to proceed in this Court with his motion for relief from judgment is already before the Sixth Circuit; Martin need not file a separate appeal in order to have the Sixth Circuit review that question. Thus, because there is no basis Martin’s appeal, it cannot be taken in good faith. Martin is therefore not entitled to proceed *in forma pauperis* on appeal.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: April 1, 2025

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 1, 2025, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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